

## **NONEXCLUSIVE LICENSE AND USAGE AGREEMENT**

This AGREEMENT made this \_\_\_\_ day of \_\_\_\_, 2005, and is entered into by and among AMERICA RECYCLES DAY, INC. a Delaware non-profit corporation, having its mailing address at 1325 G Street, NW, Suite 1025, Washington, D.C. 20005-3104 ("Licensor"), and \_\_\_\_\_ ("Licensee").

### **RECITALS**

WHEREAS Licensor has rights to the name, logo, symbol, design, visual representation and components thereof of "America Recycles Day," a depiction of which is attached here as Exhibit A (hereinafter referred to as "Logo"); and

WHEREAS Licensee is \_\_\_\_\_; and

WHEREAS it is the desire and intention of the parties that Licensee be granted a non-exclusive license to use the Logo \_\_\_\_\_.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### **AGREEMENT**

1. Grant of license. Subject to the terms and conditions of this Agreement, the Licensor grants to the Licensee, for the term of this Agreement, a non-exclusive license, without any right to assign, convey, or sublicense, to use the Logo throughout the United States for the sale and distribution of promotional items depicting the Logo. ("the Articles"). Use of the Logo by the Licensee is subject to the following restrictions:
  - (a) All usage of the Logo by the Licensee of the Logo on the Articles shall be strictly in conformance with the graphic standards set forth in the attached Logo Usage Guide and shall, in all instances, be accompanied by use of the <sup>TM</sup> symbol.
  - (b) Licensee expressly agrees to use and apply the Logo only to Articles made with recycled content. In addition, Licensee expressly agrees to use and apply the Logo only to types of Articles for which written approval by Licensor has been obtained.
  - (c) Licensee expressly agrees not to use the Logo in any advertising without the express written permission of Licensor. Licensee understand that in order to obtain such authorization, it may be required to submit any proposed advertising materials using the Logo for review by Licensor. Licensor retains the right to reject any such proposed advertising by Licensee and to withhold the right to use the Logo in conjunction with such advertising.
  - (d) Failure to comply with any of the aforesaid restrictions on use of the Logo by the Licensee may be considered a material breach of this

Agreement by the Licensor and may result in termination hereof pursuant to Paragraph 2 below.

2. Term

- (a) This Agreement shall commence on \_\_\_\_\_ and continue until \_\_\_\_\_ 2005.
- (b) Should Licensee fail to comply with any material provision of this Agreement, Licensor shall have the right, in addition to other remedies available to such party, to terminate this Agreement and the rights granted herein at any time. To exercise such right to terminate, Licensor shall provide to the Licensee thirty (30) days written notice specifying such breach. Licensee shall have the right to cure the alleged breach within the thirty (30) day notice period. If such cure is made, this Agreement shall not be terminated.
- (c) Any termination of this Agreement shall in no way operate to limit any of the rights or obligations of the Licensor, either at law or in equity, or to relieve Licensee of its obligations which accrued prior to the effective date of such termination.
- (d) In the event that Licensee fails to comply with the requirements concerning use of the Logo or any other provisions of this Agreement, Licensor expressly reserves the right not only to terminate this Agreement, but to seek damages, including attorneys' fees and costs, relating to enforcement of this Agreement.

3. Payment: In consideration of the foregoing License granted by the Licensor to the Licensee, within fifteen (15) business days of execution of this Agreement by the parties, the Licensee shall pay a one time license fee for the term of this License in the amount of \_\_\_\_\_.

4. Maintenance of Logo. Licensor will use its best efforts to register and maintain, or cause to be registered and maintained, the Logo as a trademark to enable \_\_\_\_\_ .
5. Indemnities. Licensor assumes no liability for use by the Licensee of the Logo which may impair or infringe on the rights of any third-party. Licensee will not at any time knowingly do or cause to be done any act or thing in any way impairing or intending to impair any part of such right, title and interest of the Licensor, and Licensee hereby indemnifies and holds harmless Licensor from and against all losses, damages, and expenses, including attorney's fees, incurred as a result or related to claims of third persons as a result of Licensee's use of the Logo.
6. Ownership of the Logo. Licensee acknowledges the representations of Licensor that Licensor owns the exclusive right, title and interest in and to the Logo. Licensee shall not in any matter represent that it has any ownership in the Logo or registration thereof. Licensee acknowledges that the use of the Logo shall not in any matter represent that it has any ownership in the Logo or registration thereof and the Licensee acknowledges that the use of the Logo shall not create in the Licensee's favor any right, title, or interest in or to the Logo.
- [7. Inventory upon termination.
  - (a) After termination of this agreement under the provisions of Section 2, Licensee may dispose of articles which are on hand or in process at the time of notice of termination.
  - (b) Notwithstanding anything set forth above to the contrary, Licensee shall not cause the manufacture of any Articles after the termination of this Agreement.]
7. No joint venture. Nothing herein contained shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party in any manner whatsoever. Each party represents and warrants that its execution of this Agreement has been duly authorized by all necessary corporate authorities.
8. Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the District of Columbia and any legal proceedings relating to the subject matter of this Agreement shall be maintained in Federal or State Courts sitting in the District of Columbia. Both parties agree and consent to jurisdiction in the courts of the District of Columbia for any dispute arising hereunder.
9. Notice. Any notice, request or other communication required or permitted hereunder shall be in writing and shall be deemed to as been duly given if sent by certified mail, return-receipt requested, postage paid, to the parties at their addresses set forth above or to such other address or addresses as either of these parties may from time to time designate as its address by notice in writing to the other. All notices so addressed are effective when received.

10. Sole Agreement. This Agreement constitutes the complete understanding of the parties, and no waivers or modifications of any provision shall be valid unless in writing, signed by the parties hereto. This Agreement supercedes any prior agreements between the parties in regard to its subject matter, whether oral or written.
11. Binding effect. This Agreement, its covenants, conditions and provisions herein shall insure to the benefit of and be binding upon the parties hereto and their respective successors of the business of Licensor or Licensee. Any assignment of the Logo (or trademark thereof) by Licensor shall act as an assignment of this Agreement as well.
12. Partial invalidity. If any clause, sentence, paragraph or other part of this Agreement shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate this Agreement but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such adjudication shall have been made; and, in all other respects and particulars, the Agreement shall continue in full force and effect without modification.
13. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an original. Both parties agree that a signature on a facsimile copy of this Agreement shall be as fully binding as an original signature. Each party acknowledges that the person signing below is fully authorized to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this document to be duly executed as of the day and date first above written.

WITNESSES:

ARD, Inc.

\_\_\_\_\_

AMERICA RECYCLES DAY, INC.

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_